

of its written plan satisfies the requirements of § 403(b) and the regulations, provided that, during the remedial amendment period, the pre-approved plan is adopted retroactive to January 1, 2010 or the plan is amended to correct any defects in the form of the plan retroactive to January 1, 2010.

An employer that first establishes a § 403(b) plan after December 31, 2009, by adopting a written plan intended to satisfy the requirements of § 403(b) and the regulations will also have reliance beginning on the effective date of the plan, provided the employer either adopts a pre-approved plan with a favorable opinion letter or applies for an individual determination letter and corrects any defects in the form of the plan retroactive to the plan's effective date.

The upcoming revenue procedures will include this remedial amendment provision and will address the time-frames for adopting a pre-approved plan or applying for a determination letter and other details regarding the remedial amendment period.

Rev. Proc. 2007-71, 2007-2 C.B. 1184, provided model plan language for use by public schools and other employers in complying with the requirements of § 403(b) and the regulations. Employers may continue to rely on the model plan language in Rev. Proc. 2007-71 as provided in that revenue procedure.

Employers may rely on this announcement prior to publication of the revenue procedure for pre-approved § 403(b) plans. Accordingly, employers should not request ruling or determination letters on the form of their § 403(b) plans at this time, pending publication of the revenue procedure for pre-approved § 403(b) plans and additional procedures on applying for individual determination letters for § 403(b) plans.

The principal author of this notice is James P. Flannery of the Employee Plans, Tax Exempt and Government Entities Division. Questions regarding this notice may be sent via e-mail to retirementplanquestions@irs.gov.

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2009-90

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on December 28, 2009, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

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Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangible Property; Apportionment of Stewardship Expense; Correction

Announcement 2009-91

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (T.D. 9456, 2009-33 I.R.B. 188) that were published in the **Federal Register** on Tuesday, August 4, 2009 (74 FR 38830) providing guidance regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangible property, in particular with respect to contributions by a controlled party to the value of intangible property owned by another controlled party. These final regulations modify regulations under section 861 concerning stewardship expenses to be consistent with the changes made to the guidance under section 482.

DATES: This correction is effective on September 9, 2009, and is applicable on August 4, 2009.

FOR FURTHER INFORMATION CONTACT: Carol B. Tan or Gregory A. Spring, (202) 435-5265 for matters relating to section 482, or Richard L. Chewning, (202) 622-3850 for matters relating to stewardship expenses (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under sections 482, 861, 6038, and 6662 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (T.D. 9456) contains errors that may prove to be misleading and are in need of clarification.